

Appl. No. 10/750,479

March 27, 2006

Reply to Office Action of October 6, 2005

REMARKS/ARGUMENTS

Claims 1-28 are presented for the Examiner's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

By way of the Office Action mailed October 6, 2005, claims 1-12, 14-17, 20, 24 and 26-28 are rejected under 35 USC 112, second paragraph as being indefinite. This rejection is respectfully **traversed** to the extent that they may apply to the presently presented claims. In particular, attention directed to the specification at page 6, line 13 to page 7, line 17, namely lines 13-22 on page 6. Additional attention is directed to page 13, lines 7-23. At these locations, it is clearly taught what is meant by the phrase "ratio in the folded configuration to the unfolded configuration", such that one of ordinary skill in the art would readily know how to evaluate this limitation in the claims. Still further, many examples are set forth in the specification of certain configurations that fall within the claimed range and those that would not, as noted on pages 19-38 and the accompanying tables. Therefore, the rejection of the claims based upon Section 112 is respectfully requested to be withdrawn. Further, it is noted that these claims are not separately rejected and thus they are believed in condition for allowance.

By way of the Office Action mailed October 6, 2005, claim 13 is rejected under 35 U.S.C. § 102(b) as allegedly being anticipated, and thus unpatentable, over Kuske et al. (US 6,318,555). This rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims.

When asserting a Section 102 rejection, it is well established that there is no anticipation unless (1) all the same elements are (2) found in exactly the same situation and (3) are united in the same way to (4) perform the identical function. As now presented, independent claim 13 (and thus also its dependent claims) as now presented clearly contains at least one element not found in the cited Kuske reference (or the other art of record), namely, the package of the subject invention enclosing only one disposable absorbent article. With at least this element lacking from the teaching of Kuske, the presented claims cannot be anticipated by Kuske. Moreover, the teaching in Kuske in regards to a single item package, and Kuske as a whole, teaches away from Applicants' now recited invention because Kuske is a multiple item package. Therefore, the rejection of independent claim 13 (as well as its respective dependent claims) is respectfully requested to be withdrawn.

By way of the Office Action mailed October 6, 2005, claims 18, 19, 21-23 and 25, are rejected under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time

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the invention was made and thus unpatentable over Kuske et al. (US 6,318,555). This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

The Office Action recognizes that the Kuske reference does not disclose the rigidity of the walls of the package. However, the Office Action concludes that the teaching of Kuske would have been obvious to one of ordinary skill of the art to make such a different rigidity walled package, as set forth as applicants' invention. The applicants' assert that such a reading of Kuske is not proper, and that Kuske could not be so modified to obtain applicants' invention, and that Kuske presently does not teach the applicants' subject invention. In particular, turning to Kuske at column 3, line 57 to column 4, line 58, and namely column 4, lines 16-36, it is clear that the packaging material taught in Kuske is a material with a homogenous rigidity. Much differently, the subject invention calls for the package being composed of a first piece of material and a second piece of material, where one of the pieces of material (i.e., that is the entire piece of material, although it need not have the same rigidity but the entire piece would have a characteristic rigidity) being more rigid than the other piece of material. Thus, for the subject invention, it is the entire piece of material that is more rigid than the other piece of material. Differently, the Kuske reference only teaches a uniform rigidity for the entire packaging. And while the packaging may have a weakened area 74 to permit access, as noted in the Office Action, such does not speak to the entire piece of material having a different rigidity but rather such just teaches a piece of material having a weakened line in it. To teach such a multi-rigidity container based on Kuske and the general state of the art, would be contrary to the claimed teaching in Kuske. For at least these reasons, independent claim 18 and its respective dependent claims, cannot be rendered obvious by Kuske. Thus, the rejection of these claims is respectfully requested to be withdrawn.

Additionally, as relates to the dependent claims, they recite features not taught or suggested by Kuske. For these additional reasons, such claims cannot be rendered obvious by Kuske.

At this time, applicant also submits an English translation of a prior submitted foreign reference, JP 10-095,481 (Kao reference), which translation was supplied by the USPTO in another of Applicants' pending applications, Serial Number 10/366872, filed February 14, 2003. While applicants' firmly believe that the subject claimed invention is patentable over the cited reference, they provide the following comments. The Kao reference is lacking at least the claimed ratio in the folded configuration to the unfolded configuration recited in independent claim 1. In particular, in the Kao reference at paragraph 19, it recites particular ranges regarding the "thickness ratio of the disposable diaper 2 in the above-noted packaging structure 1 is preferably 15 to 85%, and more preferably 40 to 60%." That is, any ratio less than 0.15 (or 15%) is expressly taught against. In

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this regard, Kao states of such a lower ratio: if the "thickness ratio [becomes] less than 15%" [0.15 as relates to the present application] the diaper becomes hard and the texture worsens. Thus, one of ordinary skill in the art reading Kao would not be lead to conclude Kao anticipates or renders obvious applicants' invention which is contrary to the teaching for making diapers of the Kao reference.

As concerns independent claim 13, Kao fails to teach several elements of the invention, for example, the at least one viewing region and where the garment facing surface of the absorbent article has a graphic disposed thereon and the graphic is situated in the viewing region of the package. Much differently, as taught in Kao the package is of an opaque material. This is particularly noted in the drawings which depict the folded absorbent article inside in dotted lines, whereas if the package material was see-through the lines of the product would be solid. Thus, one of ordinary skill in the art reading Kao would not be lead to conclude that Kao anticipates or renders obvious applicants' invention set forth in independent claim 13, which is contrary to the teaching for making diapers of Kao.

Referring to independent claim 18, it specifically recites a first piece of material and a second piece of material wherein one of the pieces of material is more rigid than the other piece. For all the reasons discussed above concerning Kuske, those are equally applicable here. Simply, there is no different rigidity taught in Kao either. Thus, one of ordinary skill in the art reading Kao would not be lead to conclude that Kao anticipates or renders obvious applicants' invention set forth in claim 18, which is contrary to the teaching for making diapers of Kao.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-6854.

Respectfully submitted,

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